



Trial Attorneys You Trust

September 14, 2023

VIA ECF FILING

The Hon. Brett H. Ludwig
The United States District Court- Eastern District of Wisconsin
517 East Wisconsin Avenue
Milwaukee, WI 53202

**Re: *The Estate of Laliah Swayzer, et al. v. Witkowiak, et al.*
Case No. 2:16-cv-01703**

Your Honor:

In response to the County Attorney's letter, it is not accurate in several respects that can be addressed at the phone conference. In addition, plaintiffs reserved the right in their final pretrial report to call witnesses named by other parties:

Plaintiffs reserve the right to call any of the witnesses listed by the Defendants and to amend

this list based on the evidence presented by the Defendants.

(D.663:7) The County Attorney named Ms. Bruno as a witness and estimated her testimony would ½ hour:

- **Ms. Mai Bruno – Estimated ½ hour.**

(D.657:3) The County Attorney also issued a subpoena for Ms. Bruno for this trial, attached hereto. We properly served Ms. Bruno with our own subpoena. There is no surprise or prejudice to any party relative to Ms. Bruno's testimony.

Further, the County Attorney has no standing to challenge Ms. Bruno's subpoena. Outside of the context of a party claiming attorney-client privilege or some other personal right, only persons to whom subpoenas are directed have standing to challenge their validity through a motion to quash. *See, DeMarco v. Chomas, et. al*, 2008 U.S. Dist. LEXIS 90031 (E.D. Wis. 2008); *see also, Nova Products, Inc. v. Kosma Video, Inc.*, 220 F.R.D. 238 (S.D. N.Y. 2004)(a party ordinarily lacks standing to quash a subpoena directed at a nonparty unless the party is seeking to protect a personal privilege or right); *Transcor, Inc. V. Furney Charter, Inc.*, 212 F.R.D. 588 (D. Kan. 2003)(a motion to quash or modify a subpoena duces tecum may be made only where by the party seeking to challenge the subpoena has

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a personal right or privilege with respect to the subject matter requested in the subpoena). Thank you.

Sincerely,

GENDE LAW OFFICE, S.C.

A handwritten signature in black ink, appearing to read "JJG II", is positioned above the printed name.

James J. Gende II
State Bar No. 1030921

JJG:JJG

c: All Counsel of Record (via EFILE)

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

The Estate of Laliah Swayzer, et al.

Plaintiff

v.

Kimberly Witkowiak, et al.

Defendant

Civil Action No. 16-CV-1703

**SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: Mai Bruno

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States Federal Building and Courthouse 517 E. Wisconsin Ave Milwaukee, WI 53202	Courtroom No.: 320
	Date and Time: 09/20/2023 9:00 am

You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

N/A

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/06/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Douglas Knott

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

Kimberly Witkowiak

, who issues or requests this subpoena, are:

Douglas Knott, 219 North Milwaukee Street, Suite 710, Milwaukee, WI, 53202, dknott@lkglaw.net, (414)276-2102

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).